

JOHN J. DAVIS JR., SBN 65594  
E-MAIL: jjdavis@dcbsf.com  
ERIC B. MYERS, SBN 223125  
EMAIL: ebm@dcbsf.com

**DAVIS, COWELL & BOWE, LLP**

ATTORNEYS AT LAW  
595 MARKET STREET – SUITE 1400  
SAN FRANCISCO, CALIFORNIA 94105  
TELEPHONE: (858) 737-3100  
FACSIMILE: (858) 737-3101

Attorneys for *Qui Tam* Plaintiffs and Relators  
Bill Haley, Harry Rotz and Lew Long

P. RANDOLPH FINCH JR., SBN 185004  
E-MAIL: pfinch@mftb.com  
DUSTIN R. JONES, SBN 251335  
EMAIL: djones@mftb.com

**MARKS, FINCH, THORNTON & BAIRD, LLP**

ATTORNEYS AT LAW  
4747 EXECUTIVE DRIVE – SUITE 700  
SAN DIEGO, CALIFORNIA 92121-3107  
TELEPHONE: (858) 737-3100  
FACSIMILE: (858) 737-3101

Attorneys for Defendants Balfour Beatty Infrastructure, Inc.,  
Crandall Bates, Reginald Chamberlain, C. William  
Clark, Brian Miller, Travis Price and Chris Rutherford

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

EAST BAY MUNICIPAL UTILITY  
DISTRICT; SACRAMENTO COUNTY  
WATER AGENCY; FREEPORT WATER  
AUTHORITY; CITY OF SACRAMENTO;  
CITY OF ROSEVILLE; and CITY OF RIO  
VISTA,

*ex rel.* BILL HALEY; HARRY  
ROTZ; and LEW LONG,

Plaintiffs,

v.

BALFOUR BEATTY  
INFRASTRUCTURE, INC. and DOES 1  
through 100,

Defendants.

CASE NO: 13-CV-02032 WHO

STIPULATION AND ORDER TO REMAND

Assigned to:  
Hon. William H. Orrick, Courtroom 2

Complaint Filed: October 26, 2012  
Trial Date: Not Set

/ / / /

1 This stipulation is entered into between *qui tam* plaintiffs and relators Bill Haley, Harry  
2 Rotz and Lew Long (collectively “Plaintiffs”) and defendants Balfour Beatty Infrastructure,  
3 Inc., Crandall Bates, Reginald Chamberlain, C. William Clark, Brian Miller, Travis Price and  
4 Chris Rutherford (collectively “Defendants”). Defendants and Plaintiffs stipulate through  
5 counsel as follows:

6 1. In light of the Court’s ruling that the individual defendants named in the First  
7 Amended Complaint will not be stricken, the parties agree that, while this action was removed  
8 in good faith, there is no longer a basis for federal jurisdiction over it based on the allegations  
9 in the First Amended Complaint.

10 2. There is no diversity jurisdiction, because at least some of the Defendants are,  
11 and were when the action was filed, citizens of California, as are the Plaintiffs.

12 3. There is no federal-question jurisdiction, because the causes of action pleaded  
13 on the face of the First Amended Complaint are based in state law, not federal law. Nor is  
14 Section 301 of the Labor-Management Relations Act implicated based on the allegations in the  
15 First Amended Complaint.

16 4. There is no other basis for federal jurisdiction over this action at this time based  
17 on the allegations in the First Amended Complaint.

18 5. Pending completion of the remand and the other steps outlined in this  
19 agreement, Plaintiffs will not request entry of Defendants’ defaults.

20 6. The parties stipulate that no later than 45 days after entry of the order to  
21 remand, Plaintiffs will file a Second Amended Complaint that pleads the per-person ratio that  
22 applied to the hiring of Laborer apprentices by virtue of variance letters issued by the Division  
23 of Apprenticeship Standards, rather than the per-hour requirement. The Second Amended  
24 Complaint will add no new causes of action or additional allegations other than those needed to  
25 allege violations of the per-person ratio requirement. The parties will execute any stipulation  
26 and proposed order needed for the Superior Court’s permission to file the Second Amended  
27 Complaint.

7. The parties agree that, once Plaintiffs file the Second Amended Complaint, a stay of the action is appropriate until the California First District Court of Appeal issues its decision in *Henson v. C. Overaa & Co.* Accordingly, within 10 days of the filing of the Second Amended Complaint, the parties agree to execute and file an appropriate stipulation and proposed order to stay the action until the California First District Court of Appeal issues its decision in *Henson v. C. Overaa & Co.* The parties agree to execute any stipulation and proposed order needed for the Superior Court's permission to stay the action until the California First District Court of Appeal issues its decision in *Henson v. C. Overaa & Co.* The stay will extend the time within which Defendants would otherwise be required to respond to or address the Second Amended Complaint. The stay will be vacated once the Court of Appeal issues its decision in *Henson v. C. Overaa & Co.*

8. Defendants will not respond to the Second Amended Complaint before the stay takes effect. Defendants' response(s) must be filed within 30 days after the stay is vacated.

9. This agreement does not constitute an admission by any party.

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1           10.     In light of the lack of federal jurisdiction over this action at this time based on  
2 the allegations in the First Amended Complaint, the parties request that the Court REMAND  
3 the case back to Department 17 of the Alameda County Superior Court before Judge George C.  
4 Hernandez, Jr.

5 SO STIPULATED.

6 DATED: July 16, 2014

Respectfully submitted,

7 MARKS, FINCH, THORNTON & BAIRD, LLP

8  
9 By: /s/ P. Randolph Finch Jr.  
10 P. RANDOLPH FINCH JR.  
DUSTIN R. JONES

11 Attorneys for Defendants Balfour Beatty Infrastructure,  
12 Inc., Crandall Bates, Reginald Chamberlain, C. William  
Clark, Brian Miller, Travis Price and Chris Rutherford  
13 E-mail(s): pfinch@mftb.com  
djones@mftb.com

14 DATED: July 16, 2014

DAVIS, COWELL & BOWE, LLP


15  
16 By: /s/ John J. Davis Jr.  
17 JOHN J. DAVIS, JR.  
ERIC B. MYERS

18 Attorneys for *Qui Tam* Plaintiffs and Relators Bill Haley,  
19 Harry Rotz and Lew Long  
E-mail(s): jjdavis@dcbsf.com  
ebm@dcbsf.com

ORDER

PURSUANT TO STIPULATION and based on the absence of federal jurisdiction over this action, this action is hereby REMANDED to Department 17 of the Alameda County Superior Court before Judge George C. Hernandez, Jr.

DATED: July 17, 2014

  
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WILLIAM H. ORRICK  
United States District Judge